

# **BELLEFONTAINE MUNICIPAL COURT**



BELLEFONTAINE, OHIO

## **LOCAL RULES OF PRACTICE, PROCEDURES AND ADMINISTRATION**

EFFECTIVE: January 1, 2016  
Amended April 1, 2016

**BELLEFONTAINE MUNICIPAL COURT, BELLEFONTAINE, OHIO**

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Rules of Practice, Procedure and Administration

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ORDER OF ADOPTION

**IT IS HEREBY ORDERED** that the following rules be adopted for conducting the business and regulating the practice and procedures of this Court, effective January 1, 2016, until otherwise ordered.

All previous rules are hereby rescinded.

These rules and orders shall be entered by the Clerk in the Journal.

APPROVED:

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Ann E. Beck, Judge

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# **GENERAL RULES**

## **COURT HOURS**

The Bellefontaine Municipal Court shall conduct its docket from 9:00 a.m. until 5:00 p.m. Monday through Friday, legal holidays excepted, subject to temporary modification by the Court to meet emergencies, the requirements of particular cases or the administration of the court. The Court shall conduct a Small Claims docket on Thursdays commencing at 3:00 p.m.

The office of the Clerk of Court shall be open for business from 8:00 a.m. until 4:30 p.m. Monday through Friday.

## **DUTIES OF ATTORNEYS**

It shall be the duty of the complaining party or his/her legal counsel to file with the complaint, counterclaim, or cross claim, sufficient copies to effectuate service on all defendants.

All pleadings, motions, and other papers filed in an action must bear the case number and the name, address, telephone number, and Supreme Court number of the attorney filing same. A Certificate of Judgment for Lien or Transfer Judgment shall be obtained only upon filing a precipe.

All papers filed in an action shall state in the caption the general nature of the pleading, such as "Complaint", "Answer", "Motion", or other appropriate designation.

Counsel shall file an entry of appearance in all traffic, criminal, and civil cases as required by Ohio Rules of Superintendence Rule 36.

Trial counsel shall be designated on all pleadings.

Counsel shall not engage in improper or unethical behavior, such as ex parte meetings or communications with the Judge not authorized by the Code of Professional Responsibility.

Counsel shall be dressed appropriately for all proceedings, unless specifically excused by the Court. Counsel shall notify their clients of the dress code requirement set forth in Order and Decorum.

Counsel shall remain with their clients in the court building until all paperwork is finished, if applicable, and all questions answered.

## **ORDER AND DECORUM**

At the opening of each session of court, all persons in the courtroom shall stand. During the session, no person shall be permitted to wear any hat or headpiece, unless required by

religious belief. All defendants and attorneys shall stand at the time of plea or sentencing. Attorneys shall rise when addressing the court for any reason.

No person shall be permitted to consume food, gum or beverages in the courtroom unless approved by the Court.

No smoking is allowed in the Court area. This includes electronic cigarettes.

All persons shall be dressed appropriately. Any person not so dressed shall be removed from the Court and may not return until their attire conforms to the requirements of the Court.

All persons shall conduct themselves with proper decorum and shall at all times be courteous and respectful to the Court, staff, and all other persons in attendance.

No electronic devices shall be allowed in the building with the exception of court employees, prosecutors and staff, law enforcement, and attorneys. Media shall also be permitted to bring electronic devices, as per rule on page 6.

### **NEWS MEDIA, CAMERAS IN THE COURTROOM**

The Court shall remain open to the public at all times unless by special order the courtroom is closed to the public. The presence of cameras, video tape recorders or other recording devices shall be permitted by the Court pursuant to the Ohio Rules of Superintendence Rule 12. Requests to record court proceedings shall be made to the individual Judge in writing, and filed with the Clerk before it will be considered. Requests for cameras in the courtroom shall be considered in their order of filing.

The presiding judge shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings that are open to the public as provided by Ohio law. After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing on a Media Request Form. The written order of the Judge shall be made a part of the record of the proceedings.

#### **1. MEDIA REQUEST FORM:**

The Media Request Form shall be presented as far in advance as is reasonably possible but in no event, later than twenty- four (24) hours prior to the trial or hearing to be recorded. All requests to record proceedings of arraignment shall be made in writing and presented to the judge as far in advance as is reasonably possible, but in no event later than one-half hour prior to the arraignment session or hearing/plea to be recorded. Upon a showing of good cause, the judge may waive either of the advance notice provisions.

2. PERMISSIBLE EQUIPMENT AND OPERATORS:

- A. Use of more than one portable television, videotape, or movie camera with one operator shall be allowed only with the permission of the judge.
- B. More than one still photographer shall be permitted to photograph trial proceedings only with permission of the judge. Still photographers shall be limited to two cameras with two lenses for each camera.
- C. For radio broadcast purposes, not more than one audio system shall be permitted in court. Where available and suitable, existing audio pickup systems in the court facility shall be used by the media. If existing audio pickup systems are not available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible, but shall be visible.
- D. Visible audio recording equipment may be used by news media reporters with the prior permission of the Judge.
- E. Arrangements between or among media for "pooling" of equipment shall be the responsibility of the media representative authorized to cover the proceeding. "Pooling" arrangements are to be made outside the courtroom and without imposing on the Judge or court personnel. If disputes arise over arrangements between or among media representatives, the Judge may exclude all contesting representatives from the proceedings.
- F. The Judge shall prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the courtroom shall be employed, provided that, if the normal lighting in the courtroom can be improved without becoming obtrusive, the Judge may permit modification.
- G. Still photographers and television and radio representatives shall be afforded a clear view but shall not be permitted to move about in the courtroom during court proceedings from the places where they have been positioned by the Judge, except to leave or enter the courtroom.

3. LIMITATIONS:

- A. There shall be no audio pickup or broadcast of conferences conducted in a court facility between attorneys and clients or co-counsel or of conferences conducted at the bench between counsel and the Judge.
- B. The Judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.
- C. Jurors shall not be filmed, videotaped, recorded, or photographed without permission of the Judge.
- D. Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.
- E. This rule shall not be construed to grant media representatives any greater rights than permitted by law.

4. REVOCATION OF PERMISSION:

Upon the failure of any media representative to comply with the conditions prescribed by this rule or the Judge, the Judge may revoke the permission to broadcast or photograph the trial, hearing, arraignment or other proceeding.

5. MEDIA REQUESTS TO INTERVIEW COURT EMPLOYEES:

A media representative may request to interview a court employee regarding an incident or story that involves the employee in his or her course of business as a representative of the court. This request shall be made in writing and must have Judge's approval. No employee of the court may comment or be interviewed by the media regarding court matters without the approval of the Court.

### **SUBPOENA FOR A WITNESS**

All praecipes for subpoenas must be filed in writing no later than five days before trial, excluding Saturdays, Sundays, and holidays. Failure to do so may not be grounds for a continuance of any trial without showing good cause.

Praecipes submitted for service less than five days before trial will be accepted and service may be attempted, but the failure of said service in a timely fashion may not be grounds for a continuance of any trial.

### **COURT REPORTERS & DIGITAL RECORDINGS**

Pursuant to the Ohio Rule of Superintendence 11(A), all proceedings conducted in Bellefontaine Municipal Court shall be recorded by audio electronic recording device. Transcripts from such recording must be procured by the party requesting the same, and the costs for such transcripts shall be paid by the party making the request.

Any person who desires to have an Official Court Reporter at any proceedings or trial shall make separate arrangements to have an independent court reporter in attendance. The name of such reporter shall be submitted to the Court, and prior approval for said person to transcribe the record must be obtained. In the event an independent court reporter is utilized, costs of said attendance and the transcription of any record, if necessary, shall be the responsibility of the party requesting the same.

Digital recordings shall be maintained so as to locate any recorded proceeding not older than two (2) years. All tapes are public record subject to disclosure, and any person, upon proper request, shall be permitted to listen to any tape at a time and place designated by the Court. Digital recordings may be obtained from the Clerk's office for a fee of \$30.00.



Anyone seeking written transcripts of court proceedings shall contract directly with the court reporter.

Upon application to the Court, and pursuant to ORC §2301.24, transcripts may be obtained at public expense for indigent criminal defendants. Costs of such transcript shall be paid for from the treasury of either the City or County, as the case may be. Such costs shall be taxed to the losing party.

### **ELECTRONICALLY PRODUCED TICKETS**

The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Bellefontaine Municipal Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

### **PRESERVATION OF RECORDS**

All records shall be retained pursuant to the Rule of Superintendence.

### **RETENTION OF PUBLIC RECORDS**

The Clerk shall maintain a retention schedule according to the Ohio Rules of Superintendence.

Pursuant to the Ohio Rules of Court, Rules of Superintendence for the Courts of Ohio, Rule 26 C and D, all Bellefontaine Municipal Court case records filed since July 24, 2015, will be retained in electronic media format, including text and digital images. The Clerk of Court will provide the computer hardware and software equipment necessary to allow for inspection and copying of public records, including public records that are maintained, recorded, copied or preserved by an electronic records and information management process in accordance with division (D)(2) of Rule 26.

Paper media may be destroyed after it is imaged and saved to the electronic case record in accordance with division (D) of Rule 26.

### **COSTS AND FILING FEES**

Costs and filing fees for all actions are established by a schedule adopted by the Judge of this court. A schedule for fees and costs is available at the Clerk's Office and on the Bellefontaine Municipal Court Website. Costs and fees are subject to change without prior

notice. The Court will not accept a pleading for filing unless it is accompanied by the appropriate fee or deposit.

### **SURETY AND BONDS**

Good and sufficient security shall be required in all matters where surety, bail, bond or undertaking is required. Bond may be satisfied by any lawful method permitted.

Neither attorneys nor any officers of this Court shall be accepted as sureties, and no bond shall be approved with such person's names or addresses thereon. If a bond is posted in the name of a defendant, it may be used to satisfy any unpaid fine or court costs. Remittance of bonds is subject to Criminal Rule 46. Bonds may be held at the discretion of the court until Defendant has satisfied all appearance requirements.

### **EMAIL FILING**

Unless otherwise ordered by a Judge of the Court, it is the policy of the Bellefontaine Municipal Court that emails will not be accepted for correspondence relating to administration of court or case management. If the Court does consider an email for administrative or case management purposes, the communication shall be made into a hard copy, properly filed and then will be retained pursuant to this schedule. All other emails may be immediately disposed of by the recipient.

### **FACSIMILE FILING**

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to (937) 599-2488 subject to the following conditions:

#### **APPLICABILITY**

These rules apply to all proceedings in this Court.

#### **ORIGINAL FILING**

A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signature as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.

## COVER PAGE

The person filing a document by fax shall also provide therewith a cover page containing the following information:

- (I) The name of the court;
- (II) The title of the case;
- (III) The case number

## SIGNATURE

A party wishing to file a signed source document by fax shall either:

- (I) Fax a copy of the signed source document; or
- (II) Fax a copy of the document without the signature but with the notation “/s/” followed by the name of the signing person where the signature appears in the signed source document

A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

## TIME OF FILING

Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and the same time the court is regularly open for business.

Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.

The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.

The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means available.

## FEES AND COSTS

No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court cost and fees have been paid. Court cost and fees may be paid by credit or debit cards, check or cash.

No additional fee shall be assessed for facsimile filings.

### **MINOR MISDEMEANOR WAIVER SYSTEM**

In lieu of personal court appearance in all minor misdemeanor cases, the defendant may appear at the office of the Clerk of Court, within a stated time, and upon signing a plea of guilty and waiver of trial, pay a stated bond.

### **POLICE OFFICERS AS DEPUTY BAILIFFS**

Every police officer of the City of Bellefontaine and Trooper of the State Highway Patrol is ex-officio, a deputy bailiff of this court, and shall perform such duties with respect to cases within his jurisdiction as required of him by the Judge, Clerk or Bailiff, or by rule of this Court without additional compensation. The duties may be performed for this Court by the Sheriff of Logan County, with respect to cases outside the City of Bellefontaine.

### **ARRAIGNMENTS: TRAFFIC & CRIMINAL CASES**

Arraignments for both traffic and criminal cases shall be conducted on Monday and Wednesday morning, beginning at 9:00 a.m. until completed, and at all other times as may be necessary.

### **VIDEO ARRAIGNMENTS**

Video arraignments for inmates will be conducted by video link up with the Logan County Jail. These arraignments will be held Monday through Thursday at 10:30am. and at all other times as may be necessary. Attorneys are directed to proceed to the Logan County Jail courtroom. The arraignment will be conducted in open court and the arraignment shall be open to the public.

### **SCHEDULING OF PROCEEDINGS**

#### (A) TRIALS

Upon receipt of a plea of Not Guilty, the Court will schedule a trial date as near as possible to the date for the speedy trial requirement.

### (B) PRETRIALS

The court will not schedule pretrials in criminal or traffic cases. Anyone wishing to schedule a pretrial meeting shall do so directly with the Prosecutor's Office. Pretrials are not considered court proceedings. If a plea agreement is reached the court may conduct a Change of Plea Hearing if all necessary persons are available. If not, a change of Plea Hearing will be scheduled.

### (C) MOTIONS

Motions to continue must be filed no less than seven (7) days prior to the hearing. All motions to the Court shall be made in writing and shall be accompanied by a written memorandum containing the statement of facts and the legal arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure, and further shall comply with Criminal Rule 47 and Traffic Rule 11. Motions shall be set for oral hearing only upon request of counsel and/or by order of the Court. Otherwise, all motions will be deemed submitted when filed. Motions requesting an oral hearing, where applicable, shall toll the time within which the Defendant must be brought to trial until a judgment entry is filed reflecting the Court's decision as to said motion.

### **WITHDRAWAL OF COUNSEL**

Where counsel has made an entry of appearance or appears with the Defendant in a criminal or traffic case, withdrawal of counsel shall not be permitted except for good cause shown. Any attorney seeking to withdraw as counsel from such case shall file a written motion requesting withdrawal in the Clerk's office at least seven days before trial, so as to afford Defendant reasonable time to obtain other counsel if the Court finds just cause for granting said motion. Any motion to withdraw from counsel must be served upon the defendant. Said motion may be set for hearing by the Court.

### **SENTENCING**

At the conclusion of a bench trial or a jury trial, if the defendant is found guilty, the court shall impose sentence forthwith, or within a reasonable time, as justice requires.

### **FINES AND COSTS PAYMENTS POLICY**

All fines and costs are required to be paid in full on the date of sentencing. If the defendant is unable to pay fines and costs in full on the date of sentencing, the defendant is able to sign a payment agreement by paying \$140.00 monthly. There will be a \$30.00 fee assessed when the defendant requests additional time to pay his/her case. This fee will be waived if the case is paid in full 30 days from the date of adjudication. The defendant must

appear at a fines review hearing if fines and costs are not paid in full at sentencing. Review hearings will continue to be scheduled until all fines and costs are paid in full.

If the defendant is unable to pay fines, the defendant may apply to the court to perform community service for fines. The defendant will be granted credit of \$10.00 per hour for each hour of community service completed. This credit will be applied to costs only if community service is pre-approved by the court.

### **PROBATION, COMPLIANCE, AND OTHER POST TRIAL MATTERS**

Any defendant, who has a suspended sentence or ordered to participate in programs such as Driver's Intervention Program, Community Service, Work Release, Probation Incentive Program, AA/NA etc., shall be placed on either Reporting or Non-Reporting probation and must report to the probation officer or court administrative offices at the time of sentencing and place to register for said programs. Failure of any defendant to report as required shall be considered a failure to appear and may result in a bench warrant, the re-imposition of a jail sentence or a citation alleging contempt of court, for which the defendant may also be fined and jailed.

Defendants shall be assessed as costs the probation fees as provided by the Court's Fee Schedule.

### **FORFEITURE OF BOND: FAILURE TO APPEAR**

Any person released pursuant to any provision of Rule 46 of the Ohio Rules of Criminal Procedure who fails to appear before the Court as required is subject to the punishment provided for by law, and any bail given for his/her release shall be forfeited in accordance with ORC §2937, et seq.

Any person released on his/her own personal recognizance shall be deemed to have been released pursuant to ORC §2927.29.

The Clerk's Office shall deal with the proceeds of bail upon adjudication of forfeiture thereof, as if the same were imposed as a fine for the offense charged, and shall distribute and account for same accordingly.

Forfeiture of bond and cash bail will not be relieved against any subsequent appearance of the defendant, unless he/she shall show good cause for his/her failure to appear, hardship or other basis.

If, after final appearance, and full compliance with any sentencing order a bond is discharged, the bond shall be disbursed in criminal and traffic cases pursuant to Criminal Rule 46, which includes the retention of ten percent of said bond for administrative requirements of the court.

### **CIVIL RULES APPLY**

In cases not provided for by these criminal rules, if there is an applicable and relevant rule of civil procedure, it shall be followed by the Court.

### **APPEALS**

When an appeal is taken from this Court to the Appellate court, the Clerk's Office of this Court shall, upon payment of the necessary filing and docketing fees and the filing of a precipe therefore, prepare an authenticated transcript of the proceedings containing the judgment or final order of this court, and shall transmit said transcript, together with all original papers filed in this case, to the Clerk of Appellate Court. Request for a transcript of proceedings shall be governed by Local Court Reporter Rules.

No notice of appeal shall be accepted by the Court unless the appropriate filing fee is attached thereto or the Trial Court permits the filing of said notice without the prepayment of the filing fee.

## **LOCAL RULES FOR CIVIL PROCEEDINGS**

### **PROCEDURES FOR FILING COMPLAINTS OR OTHER PLEADINGS**

The complaining party shall file an original complaint or pleading and sufficient copies to effectuate service on all defendants. All pleadings, motions and other papers filed must bear the name, address, telephone number, and Supreme Court number of the attorney filing same. This rule, with respect to the Supreme Court number, does not apply to individuals acting pro se. The complaining party is also required to file a praecipe for means or method of service.

### **SCHEDULING OF EVENTS**

The scheduling of a case begins when it is filed. Thereafter, all civil cases shall be governed by the following procedures:

Summons shall be served in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the Clerk shall notify counsel immediately. If counsel fails to obtain service of summons within one (1) year from the date of the filing of the action, the Clerk shall notify counsel that the case will be dismissed within thirty (30) days unless good cause is shown to the contrary.

Counsel shall ascertain if service is perfected. Counsel shall submit a default entry within forty-five (45) days of perfection; otherwise, the case may be dismissed for want of prosecution.

In the event a responsive pleading is filed, the Clerk shall forward the case file to the Judge for review.

If no action has been taken on a case for a period of one (1) year or more, and the case has not been set for trial, the Clerk shall notify the party or parties that the case will be dismissed within thirty (30) days unless good cause is shown.



Pursuant to Civil Rule 5, it shall be the duty of the party filing a pleading, including written motions or briefs subsequent to the complaint, to mail or deliver immediately a copy thereof to each party or his attorney.

In all cases, for good cause shown and upon such terms as are just, the time for filing pleadings may be extended for such reasonable time as the Court may order and in accordance with the Civil Rules of Procedure.

Every extension of time pursuant to this rule shall be made by entry of the Court.

### **JUDICIAL REVIEW**

After an answer or final responsive pleading is filed, the Clerk will forward the case file to the Court for review. The Court will review the file to determine if a first pretrial is necessary. A pretrial shall be conducted in person unless the party obtains prior approval from the Judge or that a telephone pretrial is directed by the Court. The Court will normally not approve any telephone pretrial unless all parties have consented. Counsel for either party may also request a first pretrial conference.

### **ASSIGNMENT OF MOTIONS**

All motions must be in writing and accompanied by a written memorandum containing citations and the legal arguments of counsel. Memorandums in opposition must be filed within fourteen (14) days after the motion. Reply to be filed seven (7) days after the memorandum in opposition. All motions submitted will be considered at the end of the period unless time is extended by the Court. No oral hearings will be granted in said motions unless ordered by the Court or specifically requested by a party and the Court deems said oral hearing necessary.

Motions for default judgment shall be considered pursuant to Civil Rule of Procedure 55. Motions for default judgment must be accompanied by supporting evidence that clearly established the amount of the claim and basis of any interest being claimed. In the absence of the appropriate supporting evidence, the Court may schedule a hearing on damages.

A brief of authorities relied upon must be filed with each motion. Failure to do so shall be sufficient cause for overruling said motion.

When deemed appropriate, the Court may order that counsel prepare a proposed entry.

### **PRETRIALS**

For the purpose of this rule, the "first pretrial conference" shall mean a conference chiefly between the parties, designed to set discovery and deadlines and to discuss an amicable settlement of the case.

Counsel attending the pretrial must either do so with their parties or have complete authority to stipulate as to items of evidence and have full settlement authority.

## **MEDIATION**

If the case cannot be settled at the pretrial, the case may be referred for mediation. The court will appoint a mediator from its list of qualified mediators, after determining there are no conflicts between the parties and the mediators and considering other input from the parties. The court will pay the first \$200.00 of the mediation fees from its mediation fund. Unless a surplus exists in the fund, the balance shall be paid equally by the parties. The court will set the initial date for mediation followed by a scheduling conference date. The mediator will determine the location for the meeting and may reschedule the hearing, if necessary, to conform to his/her schedule, and shall notify the court of the date change. If necessary, the court will reschedule the scheduling conference.

The mediator shall file a mediation report within ten (10) days of the mediation hearing.

## **TRIALS**

If the case cannot be settled at pretrial, the case will be assigned for trial at a time agreeable to all parties. Unless a jury demand is timely filed with the appropriate deposits, all trials shall be to the Court.

All cases wherein no answer, motion, or other pleading has been filed shall be heard and disposed of after the appearance or answer date. All default judgments shall be resolved in accordance with Civil Rule 55.

## **CONTINUANCES**

No party shall be granted a continuance of a trial or a hearing without a written motion from the party or his counsel stating the reasons for the continuance. The moving party shall contact the opposing party and note agreement or opposition to subject motion. Except for good cause shown, all motions to continue must be filed at least 7 days prior to hearing.

When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial in accordance with the Rules of Superintendence. The granting of any other request for continuance of a

scheduled trial date is within the discretion of the court. Continuance requests made because of a prior scheduled hearing must be accompanied by the conflicting assignment notice.

### **JUDGMENT ENTRIES**

Counsel for the party in whose favor an order or judgment is rendered may be directed to prepare the appropriate judgment entry. That entry shall be submitted to opposing counsel within five (5) days of the Court's decision. Opposing counsel shall approve or reject the entry within five (5) days thereafter. Within fifteen (15) days of the Court's decision, the journal entry shall be submitted to the Judge, or, thereafter, the Court will be free to prepare its own judgment entry.

Parties shall not be required to appear if a case has been reported to be settled, provided an entry reflecting the settlement is filed. Parties shall submit a proposed entry reflecting the settlement within thirty (30) days of the scheduled trial date. If the parties fail to file said entry in a timely fashion, the case may be dismissed by the Court on its own motion for want of prosecution after notice to the parties. All proposed Judgment Entries settling cases shall state which party will pay costs. If an entry fails to state which party shall pay costs, such costs shall be assessed to the Plaintiff. Further, if counsel has been directed to prepare a proposed entry and submitted it to opposing counsel and it remains unsigned for a period of ten (10) days, such entry shall be submitted to the Court for approval, setting forth this refusal to approve by opposing counsel.

This rule shall not apply to Small Claims Court cases.

### **BRIEFS TO COURT BEFORE TRIAL**

Attorneys for each party of the action shall, if directed by the Court, furnish a brief of facts, issues and authorities at least seven days before trial. All cases to be considered must be attached.

### **TRUSTEESHIP REGULATION**

Trusteeships for the equitable distribution of non-exempt personal earnings of debtors among their creditors will be established and governed by the provision of Ohio Revised Code §2329.70 and these rules.

An applicant must reside in the territory of this Court, and at the time of making application for appointment of trustee, shall exhibit to the Clerk a 15 day legal demand for payment of debt and notice of garnishment proceedings, received from a creditor listed in his statement.

The application shall contain:

- a) an accurate statement of debtor's name, address, phone number, marital status, and names of his dependents;
- b) name and address of debtor's employer or employers; and
- c) amount or amounts of his gross and net earnings for the previous two pay periods;

It shall be accompanied by a sworn statement, disclosing names and addresses of all creditors holding liquidated claims, both secured, and unsecured, with amounts due each.

Upon the filing of such application and payment of a filing fee, the Clerk will be designated to act as trustee, without additional compensation, and without bond other than his/her official bond, to receive and distribute to those creditors of the debtor at the time of filing, his non-exempt personal earnings and such other funds as he may voluntarily pay over or assign to said trustee.

The filing of such application shall stay all proceedings against applicant's personal earnings unless the proceeds under attachment or proceedings in aid of execution are already in the possession of the Court.

At time of application, Debtor shall present to the Clerk a copy of their most recent pay stub. Applicant shall sign a wage withholding order directing applicant's employer to pay to the Court the non-exempt portion of applicant's wages (currently 25% of disposable income) or applicant may make payments to the court directly. It is the applicant's responsibility to make required payments until employer makes payments on applicant's behalf. Failure to make such payment or payments will be cause for termination of trusteeship.

Work stoppages without pay, for any reason, and change of employment, MUST be reported to the trustee on or before payment days. Failure to do so will be grounds for termination of trusteeship.

If the debtor fails to make a scheduled payment for a period in excess of 30 days, the Court shall terminate the trusteeship, unless, based on motion from applicant, the Court directs otherwise.

When a trusteeship is dismissed for non-payment, it shall not be reinstated and the debtor shall not be permitted to file a new trusteeship for six (6) months from the date of dismissal, unless upon motion supported by affidavit the debtor proves to the satisfaction of the Court, that failure to maintain the trusteeship agreement was not due to willful neglect. (Revised Code Section §2329.70.) Before reinstatement will be made, all amounts required by law must be paid.

List of creditors filed by debtor shall show:

- a) name of creditor with the account number;
- b) creditor's business address;
- c) total amount due to creditor.

The Clerk shall cause Notice of Trusteeship to be forwarded to each creditor with request to verify account. No distribution or apportionment shall be made to any creditor until verification of account is filed with Clerk.

If a claim listed by debtor varies substantially in amount from that verified by creditor, the Clerk shall notify debtor of the discrepancy and require him to appear and amend his schedule, or to request a hearing for determination of true amount due. Notice of hearing shall be given to each party and hearing had and judgment rendered as in other civil cases.

No trusteeship will be opened by the Court unless the applicant has disclosed more than one (1) creditor.

Voluntary payments in excess of the legal obligation may be made.

Debtor may list additional creditors omitted from his original statement, through inadvertence, by application to the Court with notice to such creditors, to list them in the trusteeship. If such application is made by a creditor, notice must be given to the debtor.

Any person who becomes a creditor AFTER the appointment of trustee may be listed in such trusteeship and share in any distribution made by the trustee AFTER the next ensuing distribution. (Revised Code Section §2329.70.)

False statements to the trustee by any creditor will be cause for disallowance of claim; false statements to the trustee by debtor will be cause for dismissal.

The trustee shall make no distribution to anyone except a creditor or any attorney for a creditor.

The trustee shall make periodic distribution to creditors as the trustee deems reasonable. The trustee shall distribute two (2%) per cent of gross receipts to the City as a fee for collecting and dispensing funds.

## **RULES FOR SMALL CLAIMS COURT**

A Small Claims Division is hereby established pursuant to ORC §1925.01 et seq., with jurisdiction in civil actions for the recovery of money only excluding libel, slander, replevin, alienation of affections, malicious prosecution, abuse of process actions, actions on any claim brought by an assignee or agent and actions for punitive damages.

### **MEDIATION**

Contested small claims cases may be referred to mediation prior to being heard by the court.

### **FILINGS**

A filing fee in the amount provided on the current fee schedule shall be paid to the Clerk of the Small Claims Division when the action is commenced by the plaintiff, or his/her attorney. The claim shall be reduced to writing in concise, non-technical form and signed by the plaintiff, under oath, or by his/her attorney. The claims shall also state the plaintiff's and defendant's place of residence. All claims shall be filed on forms provided by or similar to those provided by the Clerk.

### **CONTINUANCES**

Continuances must be requested in advance of the Small Claims Court hearing. The Court will determine whether a continuance will be granted.

### **TRANSFERS**

The procedure for the transfer of a case from the Small Claims Division to the regular docket is pursuant to ORC §1915.10. The motion shall be accompanied by an affidavit stating that a good defense exists and the grounds thereof and an appropriate filing fee. An answer shall be filed within two (2) weeks after the motion to transfer is granted. The Court may, in its discretion, grant or deny the motion. A case will also be transferred to the regular docket if a counterclaim is filed in an amount greater than the statutory limit set for jurisdiction limit for such proceeding.

## **JURY MANAGEMENT PLAN**

### **OPPORTUNITY FOR SERVICE**

The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

Jury service is an obligation of all qualified citizens of Logan County, Ohio.

### **PROCEDURE FOR JURY SELECTION**

Potential jurors shall be drawn from a jury source list, which shall constitute a list of all registered voters in Logan County, Ohio, by the use of random selection procedures using automated data processing equipment in conformity with Ohio Revised Code §2313.08 and Ohio Revised Code §2313.21.

The jury source list shall be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.

### **RANDOM SELECTION PROCEDURES**

Random selection procedures shall be used throughout the jury selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection.

Departures from the principle of random selection are appropriate only to comply with lawful exceptions.

### **ELIGIBILITY FOR JURY SERVICE**

All persons shall be eligible for jury service except those who:

1. Are less than eighteen years of age;
2. Are not citizens of the United States;
3. Are not residents of the jurisdiction in which they have been summoned to serve; to wit, Logan County;
4. Are not able to communicate in the English language; or
5. Have been convicted of a felony and have not had their civil rights restored.

### **TERM OF AND AVAILABILITY FOR JURY SERVICE**

The time that persons are called upon to perform jury service and to be available shall be the shortest period consistent with the needs of justice.

Prospective jurors shall be summoned only upon the filing of a written jury demand. In civil cases, a deposit of Five Hundred Dollars (\$500.00) shall be assessed. Said deposit shall be tendered no less than two weeks before trial date. In the event said deposit is not made, no jury will be summoned, and the failure to make said deposit shall be deemed a waiver of the right to trial by jury. A person determined to be indigent may petition the court for a waiver of the jury deposit requirement. In criminal cases, no deposit shall be required.

Prospective jurors shall be summoned to appear in jury pools of thirty five (35) to forty (40) persons at each trial scheduled before the court, unless the court determines that a lesser or greater number is necessary for a particular trial. The Clerk of this Court shall implement a telephone call-in system whereby prospective jurors call a local number the day before a scheduled jury trial to hear a recorded message informing them as to whether or not they are still needed for jury service the next day. Once a given jury pool is actually required to appear for a jury trial, all members of that pool shall be excluded from further jury service for that term. In any event, all members of any given jury pool shall be excused from further jury service for the remainder of the term, after that particular pool has been on call for three consecutive jury trials.

### **EXEMPTION, EXCUSE, AND DEFERRAL**

Eligible persons who are summoned may be excused from service only if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service upon a jury would constitute a significant hardship to them or members of the public. Persons excused from service may be deferred and thereby



subject to jury service at a later time. All requests for excuse, exemption or deferral must be made in writing, and shall be retained by the Clerk of this Court for a period of three (3) years.

No person shall be excused from jury service, except by the Judge or an individual specifically authorized by the Judge to excuse jurors.

### **VOIR DIRE EXAMINATIONS**

Voir dire examinations shall be limited to matters relevant to determining whether to remove a juror for cause and to determine that juror's fairness and impartiality.

The trial Judge will conduct a preliminary voir dire examination; counsel will then be permitted to question panel members for a reasonable period of time.

The Judge will insure that the privacy of prospective jurors is reasonable, protected, and that the questioning is consistent with the purpose of the voir dire process.

Voir dire questioning will conform to the following rules:

Counsel may not examine prospective jurors concerning the law or possible instructions;

Counsel may not ask jurors to base answers on hypothetical questions;

Counsel may not argue the case while questioning jurors;

Counsel may not ask jurors what kind of verdict they might return under any circumstances. No promises may be elicited from jurors; and

Counsel may inquire by general questions only concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

### **REMOVAL FROM JURY PANEL FOR CAUSE**

If it is determined by the Court during the voir dire process that an individual is unable or unwilling to sit in a particular case fairly and impartially, that individual shall be removed from the panel. Such a determination may be made on motion of either counsel, or by the Court. Ohio Revised Code Section §2313.42 and Criminal Rule 24(B) set forth additional cause for which a potential juror may be removed from the panel.

### **PEREMPTORY CHALLENGES**

Peremptory challenges shall be exercised alternatively as presently established by Revised Code Section §2945.23, Civil Rule 47, and Criminal Rule 24, unless prior to trial the parties agree on the record to another method. Unless otherwise agreed, all challenges shall be made in open court. In special circumstance, however, challenges may be made outside the hearing of the prospective jurors.

### **ADMINISTRATION OF THE JURY SYSTEM**

The responsibility for administration of the jury system shall be vested exclusively in the Bellefontaine Municipal Court.

All procedures concerning jury selection and service shall be governed by the Ohio Rules of Court.

### **NOTIFICATION AND SUMMONING PROCEDURES**

The notice summoning a person to jury service shall be phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems, and shall be delivered by ordinary mail.

The summons shall clearly explain how and when the recipient must respond and the consequences of a failure to respond.

Policies and procedures shall be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

### **JUROR USE**

The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques shall be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

### **JURY FACILITIES**

The Court shall provide an adequate and suitable environment for jurors.

To the extent possible, juror facilities shall be arranged to minimize contact between jurors, parties, counsel, and the public.

### **JUROR COMPENSATION**

Persons called for jury service shall receive a fee of Twenty-Five Dollars (\$25.00) per day, for each day that they are required to and actually do appear in Court.

Employers shall be prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

### **JUROR ORIENTATION AND INSTRUCTIONS**

Jurors shall report for service no later than 8:45 a.m.

The Court shall give preliminary instructions to all prospective jurors, as well as additional instructions following the impaneling of the jury to explain the jury's role, trial procedures of the Court, along with other basic and relevant legal principles.

Upon the completion of the case and prior to jury deliberations, the Court shall instruct the jury on the law and the appropriate procedures to be followed during the course of deliberations.

A final jury charge shall, whenever possible, be committed to writing, and shall be provided to the jury for its use during deliberation.

All communications between the Judge and the members of the jury panel, from the time of reporting to the Court to dismissal, shall be committed to writing or placed on the record in open Court. Counsel for each party shall be informed of any communication, and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witnesses, have any contact with the jury.

### **JURY SIZE AND UNANIMITY OF VERDICT**

Jury size and unanimity in civil and criminal cases shall conform with the existing Ohio law.

### **JURY DELIBERATION**

All jury deliberations shall take place under conditions and pursuant to procedures that are designed to insure impartiality and to enhance rational decision making.

Deliberations shall not continue after a reasonable hour, unless the trial Judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors, and are required in the interest of justice.

### **SEQUESTRATION OF JURORS**

If jury deliberations are halted, jurors shall be permitted to be separated, unless for good cause shown, the Court finds that sequestration is necessary.

The trial Judge shall have the discretion to sequester a jury on the motion of counsel or on the Court's initiative, and shall have the responsibility to oversee the conditions of sequestration.

Training shall be provided to personnel who escort and assist jurors during sequestration.

## **COURT SECURITY PLAN**

The Bellefontaine Municipal Court is charged with dispensing justice, resolving disputes, and protecting the constitutional rights of those who appear before the court.

Accordingly, appropriate levels of security should exist in the court to protect the integrity of the court procedures, protect the rights of the individuals before it, sustain the decorum and dignity of the court, and assure that court facilities are secure for all those who visit and work there.

Therefore, pursuant to Rule 18 of the Rules of Superintendence for Municipal and County Courts, the court hereby establishes the following Court Security plan:

### **SECURITY POLICY AND PROCEDURE MANUAL**

The court hereby adopts the written security policy and procedures manual previously recommended by the Court's Security Advisory Committee. A copy of said manual shall be kept on file in the Office of the Clerk of this court at all times.

### **LOCAL COURT SECURITY ADVISORY COMMITTEE**

A Logan County Court Security Advisory Committee was previously appointed by the Judges of the Common Pleas, Probate/Juvenile, and Municipal Courts. This plan shall be submitted to said committee for its advice and consent prior to implementation.

### **PERSONS SUBJECT TO SECURITY SCREENING**

All persons entering the Bellefontaine Municipal Court shall be subject to security screening on each visit to the court facility. All persons entering the court facility, with the exception of court personnel, shall be required to enter and exit through a single point of entry which will be equipped with a walk-through magnetometer. Any person refusing to be screened shall be denied access to the court facility.

### **COURT SECURITY OFFICERS**

The security of the court facility shall be the primary responsibility of the Security Officers and/or Bailiffs of the Municipal Court, each to be appointed by the Judge of this Court. The Bailiff shall be a law enforcement officer certified by the Ohio Police Officers' Training Council, and all times while on duty shall be armed and shall wear a badge identifying themselves as Bailiffs of the Court. Any additional security deemed necessary shall be provided by uniformed, armed, law enforcement officers requested and designated by the Judge of this Court.

### **WEAPONS IN COURT FACILITY**

No weapons shall be permitted in the court facility except those carried by the court's security officers or by law enforcement officers acting within the scope of their employment. Law enforcement officers who are parties to a judicial proceeding as a Plaintiff, Defendant, witness or interested party outside the scope of their law enforcement employment shall not be permitted to bring weapons into the court facility. A secure place to check weapons will be provided by the court's security officers.

### **ELECTRONIC DEVICES**

No electronic devices of any kind shall be permitted in the court facility. This applies to all persons with exception of licensed attorneys, court personnel and law enforcement officials acting within the scope of their employment.

### **TRANSPORTING OF PRISONERS WITHIN COURT FACILITY**

Prisoners shall be transported within the court facility through areas which are not accessible to the public. If that is not possible, prisoners shall be handcuffed behind the back and, when appropriate, secured by leg irons. All prisoners shall be held in a secured holding area while awaiting court hearings and during any recess.

### **DURESS ALARMS**

The courtroom shall be equipped with a duress alarm connected to the Bellefontaine Police Department. Additional duress alarms shall be located in the Judge's chambers, and the office of the Clerk of this court.

### **FUTURE CHANGES TO COURT FACILITY**

Any new construction or remodeling of the court facility shall include circulation patterns that govern the movement of people in the court facility to insure that Judges, court personnel and prisoners have separate routes to and from the courtroom.

### **INCIDENT REPORTING**

Every violation of law that occurs within the court facility shall be reported to a law enforcement agency having jurisdiction. An annual report shall be made to the Supreme Court of Ohio of all incidents reported under this rule.